

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JOSEPH TUMINELLO,

Plaintiff,

-against-

AETNA LIFE INSURANCE COMPANY,

Defendants.
-----X

Civ. Act. No.: 13 CIV 938 (KBF)(JCF)

AMENDED NOTICE OF MOTION

DOCUMENT
ELECTRONICALLY FILED

PLEASE TAKE NOTICE that, upon the Declaration of Wanda Greene Celestine dated July 16, 2013 and Exhibits "A" through "D" annexed thereto, the Declaration of Michael H. Bernstein dated July 18, 2013 and Exhibit "E" annexed thereto, the Rule 56.1 Statement of Facts dated July 23, 2013, and the accompanying Memorandum of Law, Defendant Aetna Life Insurance Company, by its attorneys, Sedgwick LLP, will move this Court, before the Honorable Katherine B. Forrest at the United States District Court, Southern District of New York, located at 500 Pearl Street, New York, New York 10007, at a date and time to be set by this Court, for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure dismissing Plaintiff's Complaint, and for such other and further relief as this Court may deem just and proper.

Dated: New York, New York
July 23, 2013

Respectfully submitted,

/s/Michael H. Bernstein

MICHAEL H. BERNSTEIN (MB 0579)

JULIE KIM (JK 5700)

SEDGWICK LLP

225 Liberty Street, 28th Floor

New York, New York 10281-1008

Telephone: (212) 422-0202

Facsimile: (212) 422-0925

Sedgwick File No. 00322-008165

Attorneys for Defendant

To:

Scott Riemer
Riemer & Associates LLC
60 East 42nd Street, Suite 1750
New York, New York 10165
(212) 297-0700
sriemer@riemerlawfirm.com

Marc S. Whitehead
Marc Whitehead & Associates, LLP
5300 Memorial Drive, Suite 725
Houston, Texas 77007
(713) 228-8888
marc@marcwhitehead.com

CERTIFICATE OF SERVICE

I, Julie Kim, hereby certify and affirm that a true and correct copy of the attached **AMENDED NOTICE OF MOTION** was served via ECF to the parties listed on the Notice of Electronic Filing on July 23, 2013, upon the following:

Scott M. Riemer
RIEMER & ASSOCIATES LLC
60 East 42nd Street, Suite 1750
New York, New York 10165
Tel.: (212) 297-0700
Email: sriemer@riemerlawfirm.com

Marc S. Whitehead
MARC WHITEHEAD & ASSOCIATES, LLP
5300 Memorial Drive, Suite 725
Houston, Texas 77007
Tel.: (713) 228-8888
Email: marc@marcwhitehead.com

/s/Julie Kim

JULIE KIM (JK 5700)

Dated: New York, New York
July 23, 2013